

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of local consultancy services in the field of freedom of expression and of the media

Contract N° BH5055/01-2024



In the framework of the European Union/Council of Europe "Horizontal Facility for the Western Balkans and Türkiye" (Horizontal Facility III), the Council of Europe is currently implementing the action on "[Protecting Freedom of Expression and of the Media](#)" (PRO-FREX). In that context, it is looking for Provider(s) for the provision of local consultancy services as described in the lots below for the purpose of supporting the implementation of the Action and fulfilling its objectives.

A. TENDER RULES

This tender procedure is a competitive bidding procedure. **In accordance with Rule 1395 of the Secretary General of the Council of Europe on the procurement procedures of the Council of Europe¹, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €6,000 for intellectual services) and €55,000 tax exclusive.**

This specific tender procedure aims at concluding a **framework contract** for the provision of deliverables described in the Act of Engagement (See attached). A tender is considered valid for 180 calendar days as from the closing date for submission. The selection of tenderers will be made in the light of the criteria indicated below. All tenderers will be informed in writing of the outcome of the procedure.

The tenderer must be a legal person or natural person.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Tender-HF39: Provision of local consultancy services in the field of freedom of expression and of the media.** Tenders addressed to another email address **will be rejected.**

The general information and contact details for this procedure are indicated on this page. You are invited to use the CoE Contact details indicated below for any question you may have. **All questions shall be submitted at least [5] (five) working days before the deadline for submission of the tenders and shall be exclusively addressed to the email address indicated below with the following reference in subject: Questions – HF39: Provision of local consultancy services in the field of freedom of expression and of the media.**

The tenderers' attention is drawn to the fact that restrictions apply to the use of local civil servants and other public administration staff² under this procurement procedure.

Tenderers are informed that for consultancy service performed directly by or assigned to a civil servant or other public administration staff, only civil servants or other public administration staff falling under one of the following categories may be engaged:

- I. Educational staff (including academics, pedagogical institutes, pre-university teachers, schoolteachers, curriculum experts).
- II. Judges, prosecutors, staff from the prosecution offices and judicial and prosecutorial bodies.
- III. Staff from the ministries for social affairs, ministries of justice, ministries of interior and ministries of health and public institutes.
- IV. Law enforcement staff (including staff from the specialised police departments and Financial Intelligence Units (FIUs)),
- V. Staff from equality bodies and central electoral commissions.

¹ The activities of the Council of Europe are governed by its [Statute](#) and its internal Regulations. Procurement is governed by the Financial Regulations of the Organisation and by [Rule 1395 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

² For the purpose of this document, the term «local» designates consultants from one of the Horizontal Facility Beneficiaries (Western Balkan region and Türkiye)..

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2026 Renewable until 31 December 2028
Deadline for submission of tenders/offers ▶	10 May 2024 23h59 CET
Email for submission of tenders/offers ▶	profrex-k@coe.int
Email for questions ▶	profrex-k@coe.int
Expected starting date of execution ▶	31 May 2024

B. EXPECTED DELIVERABLES

Background of the Project

The "Protecting Freedom of Expression and of the Media" (PRO-FREX) aims to support beneficiary institutions and local civil society organisations in advancing their reform agendas related to freedom of expression and media freedom, aligning with European standards. Its goals include improving the judicial application of these standards in media-related cases, strengthening the independence and mandate of the media regulatory authority, and increasing the effectiveness of media actors in upholding their rights and duties in accordance with European benchmarks. Beneficiaries of this action encompass independent authorities in the field of media, judiciary and legal professionals, law enforcement and CSOs in the field of journalism and media, all pivotal in enhancing democratic processes and media integrity.

The activities foreseen under the action, in the subject areas indicated above, include policy and legal advice, legal research as well as institutional capacity building and human capacity development.

The Council of Europe is looking for a maximum number of Provider(s) per Lot, as indicated, (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on freedom of expression and of the media, and protection and safety of journalists.

This Contract is currently estimated to cover up to 20 (twenty) activities. This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe. The Contract may potentially represent a higher or lower number of activities, depending on the evolving needs of the Organisation.

The total amount of the object of present tender **shall not exceed 55,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

This framework contract is foreseen to cover consultancy services to be provided until 31 December 2026. The contract may be tacitly renewed for a further term of one year, and shall renew each year thereafter, unless either party notifies the other in writing of its intention to terminate the contract at the latest three months before the renewal date. The contract shall not be renewed beyond 31 December 2028 and shall end on this date unless either party has already validly terminated the contract.

Although the present bidding procedure is intended to cover mainly the needs under the PRO-FREX Action, aims to select Providers to support the implementation of the Council of Europe co-operation programmes as well as any other activity organised by the Council of Europe Office in Pristina in the implementation of its programme of activities. The actual framework contract may be used by all relevant entities of the Council of Europe, which will be implementing activities in the areas of freedom of expression in CoE office in Pristina.

Lots

The present tendering procedure aims to select Provider(s) to support the implementation of the project and is divided into the following lots:

Lots	Maximum number of Providers to be selected
Lot 1 - Capacity Building , which concerns local consultancy for the preparation, review, facilitation, and delivery of capacity building activities such as training or presentations on topics of freedom of expression and safety of journalists for the judiciary, legal professionals, and law enforcement using relevant materials and adult learning methods and techniques	20
Lot 2 - Capacity Building , which concerns local consultancy for the preparation, review, facilitation, and delivery of capacity building activities such as training or presentations on topics of freedom of expression, safety of journalists and Strategic Litigation Against Public Participation (SLAPP) targeting journalists and media professionals , using relevant materials and adult learning methods, and techniques.	10

Lot 3 - Local consultancy for the provision of technical expertise (Legal Review, Policy Advice, and Analysis) on local legislative and regulatory frameworks in the field of the exercise of the right to freedom of expression, including media regulation, safety of journalists (including protection of journalistic sources), as well as on judgements on freedom of expression issued by local courts.	15
Lot 4 – Local consultancy on policy advice through research on gender representation and participation in audio-visual media service providers.	10
Lot 5 - Local consultancy for the provision of presentations from the perspective of civil society (such as journalists, media actors, media expert) during training, workshops, conferences, or roundtables discussions on topics of freedom of expression and safety of journalists .	10

Lot 1

Capacity building and re-enforcing through training and other peer exchange tools is an indispensable, long-term, and sustainable solution for developing the capacities of stakeholders and strengthening their knowledge and relevant competencies in applying – in the framework of domestic laws and practices - European standards in the field of freedom of expression. Expertise under this Lot mainly targets legal professionals (such as judges, prosecutors, judicial advisors, and lawyers) and law enforcement.

Lot 2

Capacity building and re-enforcing through training and other peer exchange tools is an indispensable, long-term, and sustainable solution for developing the capacities of stakeholders and strengthening their knowledge and relevant competencies in the field freedom of expression, safety of journalists and Strategic Litigation Against Public Participation (SLAPP). Expertise under this Lot mainly targets journalists and media organisations.

Lot 3

Legislative and policy advice will help ensure that domestic legislative and policy frameworks, at all relevant levels, are brought in line with Council of Europe standards and recommendations, as well as other European and international standards. Baseline studies, recommendations, legal opinions, and other contributions will be made available to support relevant stakeholders in becoming aware and informed of these standards. This would assist the process of supporting processes for preparing policies, legislation, and regulations in the field of freedom of expression, particularly regarding media regulation, safety of journalists (including protection of journalistic sources) and local judgements on freedom of expression.

Expertise under this Lot mainly targets relevant Ministries and parliamentary committees in charge of legal reforms, but also other institutions/authorities implementing policies and regulations affecting freedom of expression and of the media. Among else, this includes civil society organisations promoting and advocating for legal reform as well as research on freedom of expression related issues.

Lot 4

This lot focuses on a detailed research study on gender representation and participation within the audio-visual media sector. The core objective is to identify existing disparities and challenges that hinder equal gender representation and participation. Through comprehensive analysis, such research will provide recommendations for media service providers, policymakers, and regulatory bodies to enhance gender inclusivity and diversity.

Lot 5

Media practitioners with experience in presenting, articulating, and moderating on topics in the fields of freedom of expression and the media, access to information, and safety of journalists serve as a **resource person** in training, conferences, and roundtable discussions. These are journalists, media workers or experts that have special insights on the topics due to their work or other relevant activities.

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement).

Only those Providers whose score, following the assessment of the Award Criteria (see Section E below), is equivalent to or higher than **50/100** will be selected under each Lot.

Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to:

Under Lots 1, 2, and 5:

- Carry out surveys on stakeholders' training needs.
- Contribute to the drafting and development of training curricula design, and thematic calendar.
- Develop necessary training materials and documents, including and not limited to worksheets and case analysis on themes falling under freedom of expression and protection and safety of journalists.
- Carry out training (remotely and in person) in the relevant area, based on identified stakeholders' needs.
- Serve as a resource to trainers and trainees of the actual situation when it comes to the rapport of the legal system institutions and the media, and the situation of safety and protection of journalists based on reported cases in the media.
- Under the guidance of the Secretariat of the Council of Europe, participate in and provide advisory support to Project's meetings and events, including consultation meetings with local authorities, working group meetings, workshops, roundtables, presentations, and conferences.

Under Lot 3, in the respective subject-matter areas as described above:

- Provide legal expertise; conduct (comparative) legal analysis and research in the relevant field.
- Provide substance inputs to the process of legislation and policy drafting.
- Review existing domestic legal and policy frameworks in line with relevant Council of Europe and European standards and provide recommendations for improvement.
- Advise on relevant subject matters, recent developments, and the challenges of regulatory and policy frameworks in local context.
- Provide policy support to reinforce the dialogue and strengthen cooperation mechanisms between all levels of government on issues concerning freedom of expression and protection and safety of journalists.
- Provide advisory support to institutions to address possible human rights gaps in the freedom of expression legislative framework and provide guidance to ensure implementation of recommendations through the drafting of guidelines or other working documents.
- Draft and develop baseline studies, recommendations and legal opinions aimed at supporting responsible stakeholders to become aware and informed of Council of Europe and other European and international standards.
- Conduct thorough research and analysis of judgements on freedom of expression issued by local courts, evaluating their implications on both the legal framework and the operational environment for media freedom and freedom of expression. This includes identifying trends, challenges, and opportunities arising from the legal precedents.
- Under the guidance of the Secretariat of the Council of Europe, participate in and provide advisory support to Project's meetings and events, including consultation meetings with local authorities, working group meetings, workshops, roundtables, presentations, and conferences.

Under Lot 4:

- Provide inputs and elements to detailed studies to map out the current landscape of gender diversity within audio-visual media. This should cover portrayal of genders, diversity of gender roles, and prevalence and impact of stereotypes.
- Examine existing local policies, regulations, and guidelines affecting gender representation and participation in the media sector.
- Identify and document best practices for promoting gender equality in the media sector. This includes benchmarking against standards set by leading media organisations and regulatory bodies, and on gender representation and participation.
- Under the guidance of the Secretariat of the Council of Europe, participate in and provide advisory support to Project's meetings and events, including consultation meetings with national authorities, working group meetings, workshops, roundtables, presentations, and conferences.

NOTE: The above list is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the field of expertise object of the present Framework Contract for the lot concerned.

In terms of **quality requirements**, the pre-selected Service Providers must ensure, among other things, that:

- The services are provided to the highest professional/academic standard;
- Any specific instructions given by the Council – whenever this is the case – are followed.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).

C. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review.

Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

D. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once the selection procedure is completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider (s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

For each order, the Council will select from the pool of pre-selected tenderers for the lot concerned the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- price.

Each time an order form is sent, the selected Provider undertakes to take all the necessary measures to send it signed to the Council within 2 (two) working days after its reception.

If a Provider is unable to take an Order or if no reply is given on his behalf within the above deadline, the Council may call on another Provider selected under that lot, using the same criteria, and so on until a suitable Provider is contracted.

Providers subject to VAT

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote³ (Pro Forma invoice) in line with the indications specified on each Order Form, and including:

- the Service Provider's name and address;
- its VAT number;
- the full list of services;
- the fee per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);
- the total amount per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);
- the total amount (in the currency indicated on the Act of Engagement), tax exclusive, the applicable VAT rate, the amount of VAT and the amount VAT inclusive.

Signature of orders

An Order Form is considered to be legally binding when the Order, signed by the Provider, is approved by the Council, by displaying a Council's Purchase Order number on the Order, as well as by signing and stamping the Order concerned. Copy of each approved Order Form shall be sent to the Provider, to the extent possible on the day of its signature.

E. ASSESSMENT

Exclusion criteria and absence of conflict of interests

(by signing the Act of Engagement, you declare on your honour not being in any of the below situations)⁴

Tenderers shall be excluded from participating in the tender procedure if they:

- have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
- are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
- have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct;
- do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of incorporation, establishment or residence;
- are an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- have been involved in mismanagement of the Council of Europe funds or public funds;
- are or appear to be in a situation of conflict of interest;
- are retired Council of Europe staff members or are staff members having benefitted from an early departure scheme;
- have not fulfilled, in the previous three years, their contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe;
- are or if their owner(s) or executive officer(s), in the case of legal persons, are included in the lists of persons or entities subject to restrictive measures applied by the European Union (available at www.sanctionsmap.eu).

Eligibility criteria

Tenderers shall demonstrate that they fulfil the following criteria (to be assessed on the basis of all supporting documents listed in Section G)

³ It must strictly respect the fees indicated in the Financial Offer attached to the original Provider's tender as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the original Provider's tender, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.

⁴ The Council of Europe reserves the right to ask tenderers, at a later stage, to supply the following supporting documents:

- An extract from the record of convictions or failing that an equivalent document issued by the competent judicial or administrative authority of the country of incorporation, indicating that the first three and sixth above listed exclusion criteria are met;
- A certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
- For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

- University degree in law, political science, international relations, communications, journalism or a related field.
- Profound knowledge of domestic standards and good practices in the area of human rights with a focus on freedom of expression.
- Professional experience of 5 (five) years in the area related to in one of the following areas: policy and/or legislative analysis, training and institutional capacity building.
- Proven working experience in holding similar consultancy or training roles at the domestic levels.
- Proficiency in Albanian language.
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Award criteria for Lots 1 and 2

- Criterion 1: Quality of the offer (90%)
 - Previous experience with designing training sessions and training materials in the area relevant to and in conducting peer-to-peer trainings in the area relevant to selected lot(s) (40%).
 - Research, analytical, drafting and writing skills (20%).
 - Understanding and knowledge of European standards, including the case-law of the European Court of Human Rights (25%).
 - Knowledge of English language at minimum level of B1 (5%).
- Criterion 2: Financial Offer (10%)

Award criteria for Lot 3

- Criterion 1: Quality of the offer (90%)
 - Academic level of legal research, analytical drafting and writing skills (30%).
 - Expertise in conducting legislative analysis aimed at drafting and delivering legal opinions and recommendations as well as research on the local case-law (30%).
 - Knowledge of the policy and legal frameworks in the relevant subject-matter area, including understanding/knowledge of the relevant European Standards (20%).
 - English language at the minimum level of B1 (Common European Language Framework) (10%).
- Criterion 2: Financial Offer (10%)

Award criteria for Lot 4

- Criterion 1: Quality of the offer (90%)
 - Academic level of research and analytical skills (20%).
 - Experience in conducting comprehensive research including methodologies and analytical techniques relevant to media studies and gender issues (30%).
 - Knowledge of the policy and institutional frameworks in the relevant subject-matter area (20%)
 - Research, analytical drafting and writing skills (20%)
- Criterion 2: Financial Offer (10%)

Award criteria for Lot 5

- Criterion 1: Quality of the offer (90%)
 - Experience in reporting about the situation of freedom of expression and the media and safety and protection of journalists (40%).
 - Experience as a local journalist and other local media actor/expert (20%).
 - Knowledge of the subject matter of freedom of expression and the media, safety and protection of journalists (30%).
- Criterion 2: Financial Offer (10%)

The Council reserves the right to hold interviews with tenderers.

Multiple tendering is not authorised.

F. NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

G. DOCUMENTS TO BE PROVIDED

- **One** completed and signed copy of the Act of Engagement;⁵
- A motivation letter in English (1 page maximum) highlighting the most relevant expertise and experience regarding the lot(s) tendered for;
- 2 (two) recent referees' contact details (including email address and phone number).
- For natural persons only:
 - A detailed CV in English language, in Europass or other format, demonstrating clearly that the tenderer fulfils the eligibility criteria; State the English level proficiency in the CV.
 - Two samples of relevant work (articles, handbooks, research analysis, policy opinions, presentations, training materials, studies, report etc.) in Albanian or English for Lots 1,2,3,4 and 5.
- For legal persons only:
 - Registration documents with a list of all owners and executive officers (in Albanian or English);
 - Detailed CV(s) in Albanian and/or English, in Europass or other format, of person(s) allocated to the execution of the contract, demonstrating clearly that each of them fulfils the eligibility criteria; State the English level proficiency. Two samples of relevant work (articles, handbooks, research analysis, policy opinions, presentations, training materials, studies, reports, etc.) in Albanian or English for Lots 1,2,3, 4 and 5.
- A list of all owners and executive officers, for legal persons only;

At the time a specific assignment is ordered from a tenderer (natural person) belonging to the category of local⁶ civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to submit a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the tenderer to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

Alternatively, at the time a specific assignment is ordered from a tenderer (legal person) assigning the production of the expected deliverables to an individual belonging to the category of local civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to verify and provide the Council of Europe with the necessary supporting documents confirming that this individual submitted a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the individual to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

All documents shall be submitted in Word or PDF format and in the language(s) indicated above. Failure to do so will result in the exclusion from the tender. If any of the documents listed above are missing, the Council of Europe reserves the right to reject the tender.

The Council reserves the right to reject a tender if the scanned documents are of such a quality that the documents cannot be read once printed.

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⁵ The Act of Engagement must be completed, signed and scanned in its entirety (i.e. including all the pages). The scanned Act of Engagement may be sent page by page (attached to a single email) or as a compiled document, although a compiled document would be preferred. For all scanned documents, .pdf files are required.

⁶ For the purpose of this document, the term « local » designates consultants from one of the Horizontal Facility Beneficiaries region and Türkiye.